FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ DEC 17 2010
P.M.
TIME A.M.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
---X
MS. ELAINE GADSON,

Plaintiff,

- against -

MR. PRESIDENT OBAMA,

Defendant.
---X

MEMORANDUM & ORDER
10-CV-5779 (RRM)

MAUSKOPF, United States District Judge.

On December 8, 2010, plaintiff Elaine Gadson ("Plaintiff"), appearing *pro se*, filed this action. The Court grants Plaintiff's request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, and dismisses the complaint for the reasons stated below.

STANDARD OF REVIEW

The Court is mindful that because Plaintiff is proceeding *pro se*, her submissions should be held "to less stringent standards than formal pleadings drafted by lawyers." *Hughes v. Rowe*, 449 U.S. 5, 9 (1980). However, under 28 U.S.C. § 1915 (e)(2)(B), a district court shall dismiss an *in forma pauperis* action where it is satisfied that the action "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." An action is frivolous when "the factual contentions are clearly baseless, such as when allegations are the product of delusion or fantasy." *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (citations and internal quotation marks omitted). Moreover, where subject matter jurisdiction is lacking, "dismissal is mandatory." *Manway Const. Co., Inc. v. Housing Authority of City of Hartford*, 711 F.2d 501, 503 (2d Cir. 1983).

DISCUSSION

Plaintiff's complaint consists of a statement to President Obama in which she details her mental health struggles. Specifically, Plaintiff states that she has "taken mental health drugs for 17 years and I have concluded that I should have never been put on these drugs, most of them I remember, Lithium, Tergerot [sic], Risperdel, Haldol, Ambien . . . Seroquel." (Compl. at 2.) Plaintiff also states that an individual she was dating "was coming to [her] apartment to kill [her]. (*Id.*) In addition, Plaintiff annexes a letter that she sent to the President and First Lady on August 12, 2010, in which she appears to complain of sexual harassment that allegedly occurred in 1993–94. For example, Plaintiff states "[h]e also said that he drew a picture of me, but refuse to show me the picture, states that he throw it away. Then he proceeded to rub the lotion off my hand onto his crazy." (*See* August 12, 2010 Letter.) Plaintiff seeks monetary damages.

The entirety of Plaintiff's complaint appears to be a request President Obama's assistance with respect to her mental health struggles. This is not a cognizable claim upon which relief can be granted. Moreover, to the extent plaintiff is seeking to assert constitutional claims against the United States or President Obama, in his official capacity, all claims must be dismissed because the United States has not waived its sovereign immunity for constitutional claims seeking money damages. *Forrester v. White*, 484 U.S. 219, 225 (1988); *Nixon v. Fitzgerald,* 457 U.S. 731, 756-58 (1982).

CONCLUSION

Although the Court is sympathetic to Plaintiff's situation, her complaint is dismissed for lack of subject matter jurisdiction, Fed. R. Civ. P. 12(h)(3), or in the alternative, for failure to state a claim. 28 U.S.C. §1915(e)(2)(B). The Court certifies pursuant to 28 U.S.C. §1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). The Clerk of Court is directed to mail a copy of this Order to Plaintiff, and to close the case.

SO ORDERED.

Dated: Brooklyn, New York
December 15, 2010

ROSLYNN R. MAUSKOPF
United States District Judge